

**NEBRASKA BOARD OF PUBLIC ACCOUNTANCY**  
**140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska**  
**MINUTES**

**March 24-25, 2002**

**1. General**

**A. Call to Order and Roll Call.** The Board of Public Accountancy was called to order at 5:42 p.m. on Sunday, March 24, 2002 with Chair Nina B. Kavich presiding. The roll was called with the following members present: Nina Kavich, William Gaines, Michelle Thornburg, Dean Graf, William Nuckolls, Roger Thompson and Kathleen Smith. Member Terry Ellinger was absent. Also present was Executive Director, Annette Harmon. The meeting was held at the Board's office, 140 N. 8<sup>th</sup> Street, Suite 290, Lincoln, Nebraska.

**B. Approval of meeting agenda for March 24-25, 2002.** Moved by Nuckolls, seconded by Smith, to approve the agenda for the March 24-25, 2002 meeting as published. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 1 carried.

**C. Approval of the minutes of the January 18, 2002 Board meeting.** Moved by Smith, seconded by Nuckolls, to approve the minutes with one correction on page 4 with Member Gaines voting nay on Agenda Item 8-D. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 2 carried.

**2. Report of the Chair**

**A. Proposed Legislative Rewrite.** The Chair, Nina Kavich, reported that a sub-committee of the Board had met on Saturday, March 16, 2002 in Columbus, Nebraska to review the additions and changes to the proposed legislative rewrite. Those changes were reviewed with members, questions were answered, and consensus was obtained for the changes. The timeline for release of the draft was reviewed and slightly revised. It is hoped to have the final review done by the July Board meeting (if not earlier), so that the draft may be released after that date.

**3. Report of the Executive Director**

**C. Report on Biennium Budget Request/ Technology Request and NIS Project.** The Executive Director, Annette L. Harmon, reported that a Biennium Budget Request would be due this year by September 15, and that the Technology Request was due April 1. A draft copy of the Technology Request was provided and reviewed by Members. As part of the discussion on the Technology Request, Rod Armstrong and Tim Erickson gave a presentation on the possibility of on-license renewals for the Board's licensees through NebraskaOnline. Questions about the financing and maintenance fees were asked by the Board and additional information was requested. The Board determined to delay making a decision until later in the day, upon receipt of additional information.

The Executive Director also reported that the NIS Project by the State was moving along, with implementation ("go-live") dates coming up in October and January 1. Just-in-time training would

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most likely occur in September, October, November and December, with several staff members being involved.

**A. Reports of NASBA Executive Director's and CPE Conferences.** The Executive Director also reported on her attendance at both the Executive Director's Conference and the CPE Conference. Recommendations to the Board for their consideration were made.

**B. Report on 2002 Legislative Session.** Legislation that was introduced this session that was of interest to the Board was reviewed via the "Bill Watch" spreadsheet. The progress of legislative bills this session will continue to be monitored.

**4. Consent Agenda**

**Approval of Consent Agenda by Roll Call Vote.** Moved by Smith, seconded by Gaines, to approve the Consent Agenda. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 3 carried.

**A. Published Notice of Meeting.** Pursuant to call and published notice, the notice of meeting is herewith attached.

**B. Approval of January and February 2002 disbursements.** The Board reviewed and approved the January and February 2002 disbursements.

**C. Review of Board Budget Status Report.** The Board reviewed the February 28, 2002 Budget Status Report.

**D. Requests for Acceptance of Surrendered Certificates and Approval of Inactive-Retired Classification.** The Board accepted the voluntary surrender of the CPA certificate for Peter Andreski (#6093), and the classification of Inactive-Retired for Merlin W. Heye (#817).

**E. Office Management Report.** The Board reviewed a report on permits and registrations issued as of March 11, 2002. Prior year's statistics were also reviewed for comparison.

**5. Report of Continuing Education Committee**

**A. Ratification of staff program evaluations since last meeting.** Moved by Gaines, with the Committee's recommendation, to approve the 1611 courses that have been evaluated and approved by the staff since the last meeting, and to deny 10 courses: #01-1359, 01-1362, 01-2679, and 01-2714 to 01-2719. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 4 carried.

**B. Report on Deficiencies for Renewal in 2002.** The Board reviewed a listing of individuals with active permits expiring June 30, 2002 that have not reported sufficient CPE hours to renew their permit for July 1, 2002. The list will be kept updated and provided again at their next meeting on May 3, 2002.

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**CLOSED MEETING**

**Closed Meeting.** Moved by Smith, seconded by Gaines, that the Board go into closed session at 10:18 a.m. for the purpose of enforcement, litigation and personnel issues. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 5 carried.

**Return to Open Meeting.** Moved by Smith, seconded by Gaines, that the Board return to open session at 12:24 p.m. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 6 carried.

**6. Report of Enforcement of Professional Conduct Committee**

**A. Determination of Probable Cause or Lack of Probable Cause.** Moved by Smith, with the Committee's recommendation, to close the following complaints for lack of probable cause: #0102-008, 0102-013, 0102-010 and 9900-016. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 7 carried.

**B. Request for Agency Declaratory Order.** Moved by Smith, with the Committee's recommendation, to decline to issue a Declaratory Order because the petition was not in proper format. However, staff will respond to his questions based on the Board's current policies. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 8 carried.

**C. Report on Appeal Status of Decision Concerning Gerard Forget.** Judge Colburn has affirmed the Board's Final Decision and Order at the District Court level. Mr. Forget has subsequently appealed this decision to the Court of Appeals, and has recently entered his appearance with the court to represent himself.

**D. Requests for Review of Form of Practice.** The Board received two requests from individual practitioners to review whether their current practice was in compliance with the Rules concerning form of practice. The Board determined that staff should communicate in writing with the two licensees regarding their practice.

**E. Hearing for Purpose of Reinstating Revoked CPA Certificate.** The Board held a hearing for the purpose of reinstatement of the revoked CPA certificate of Bruce E. Kostal. Nina B. Kavich, CPA served as the hearing officer. Mr. Kostal was not present nor represented by Counsel but had submitted a letter of explanation that was entered into the record. Present and participating in this matter were Members Dean Graf, William Gaines, William Nuckolls, Nina Kavich, Roger Thompson, Michelle Thornburg and Kathleen Smith.

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Moved by Smith, seconded by Nuckolls, to reinstate the CPA certificate of Bruce E. Kostal. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 9 carried.

**8. New Business**

**A. Future Meeting Dates.** The Board will next meet on May 3, July 7-8, September 8-9, 2002 (in Kearney) and November 14-15, 2002.

**B. NASBA.**

**1. NASBA Regional Conference.** Moved by Smith, seconded by Thornburg, to approve the expenses for Board Members and the Executive Director to attend the Regional Meeting June 2-4, 2002 in Las Vegas, Nevada. The return date would be Wednesday, June 5. A Saturday night stay would be acceptable if the cost of the hotel and additional meals would be offset by decreased airfare. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 10 carried.

**2. Nominations for Nominating Committee Representative.** Moved by Smith, seconded by Nuckolls, to nominate Kent Smoll of Kansas for our Regional Representative. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 11 carried.

Moved by Gaines, seconded by Thornburg, to support and to write a letter of recommendation for the nomination of Kathy Smith for NASBA Regional Director and/or Director at Large. On roll call vote, all members present voted aye, except Member Ellinger who was absent and Member Smith who abstained. Motion number 12 carried.

**3. Regional Directors Focus Questions.** The Board discussed the questions posed by NASBA to be sent to the Regional Director, and instructed the Executive Director to complete and submit them.

**4. State Board Dues.** The Board reviewed correspondence from David Costello of NASBA regarding an additional billing for dues for 2002-2003. Moved by Thompson, seconded by Graf, to not pay the extra dues, since the Board did not have the ability to consider the additional amount in our budget. After discussion, Motion number 13 and its second was withdrawn.

Moved by Smith, seconded by Thompson, to pay \$1,680 of the \$2,120 requested - which is a prorated amount based upon when the bylaws change went into effect: October 16, 2001. NASBA needs to be aware, however, that the increase should have been effective with the next fiscal year to allow state boards to examine their budgets for the additional amount; and that this will negatively impact our own budget. Most state boards need to budget two or three years in advance. On roll call vote, all members present voted aye, except Member Ellinger who was absent and Members Graf and Gaines who voted nay. Motion number 14 carried.

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**7. Report of Examination & Licensing Committee**

**A. Ratification of initial permits to practice issued; certificates issued.** Moved by Graf, with the Committee's recommendation, to ratify the initial permits to practice and certificates issued by examination and reciprocity. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 15 carried.

**B. Application(s) for Reinstatement to Active Permit.** Moved by Graf, with the Committee's recommendation, to ratify the approval of the applications for Reinstatement to Active Permit. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 16 carried.

**C. Interpretation of Shareholder Eligibility.** Moved by Graf, with the Committee's recommendation, to adopt the following interpretation of when a shareholder becomes ineligible to be a shareholder: 1) A licensee shareholder ceases to be eligible to be a shareholder when he/she no longer has an active permit to practice. Additionally, a licensee shareholder ceases to be eligible of a firm when the licensee shareholder terminates from that firm. A licensee who becomes a non-licensee and remains with the firm may be eligible to be a shareholder under 1-162.01 of the statutes. AND 2) A non-CPA shareholder ceases to be eligible to be a shareholder when any of the conditions of 1-162.01 of the Public Accountancy Act are violated, including active participation in the firm. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 17 carried.

**D. CBT - Decisions Regarding Implementation.** Moved by Graf, with the Committee's recommendation, that the Board retain as much control over the examination process as possible and answer the survey questions accordingly. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 18 carried.

**E. Information Concerning NASBA's CPA Examination Services.** Moved by Graf, with the Committee's recommendation, to not utilize the services of CPA Examination Services at this time. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 19 carried.

**F. Review and Approval of Renewal Applications.** Moved by Graf, with the Committee's recommendation, to approve the renewal applications with a modification to the renewal of the firm permit regarding the effective date of the office registration, and to straighten up spacing and lines. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 20 carried.

**G. CPA Certificate by Reciprocity Policy.** Moved by Graf, with the Committee's recommendation, to update the language in the Board's advance information and current application to reflect that only Canadian and Australian Chartered Accountants may take the IQEX examination.

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On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 21 carried.

**3. Report of the Executive Director**

**C. Report on Biennium Budget Request/ Technology Request and NIS Project.** After further discussion, it was moved by Thompson, seconded by Nuckolls, to have the Executive Director email all members the amount of NASBA's costs and information on the grant, ask them to respond back, and then delegate the authority to approve the on-line renewal licensing project to the Board's Executive Committee based on the Advisory Vote. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 22 carried.

**9. Adjournment**

It was moved by Gaines, seconded by Smith, that the Board adjourn at 3:12 p.m. On roll call vote, all members present voted aye, except Member Ellinger who was absent. Motion number 23 carried.

Submitted by,

Michelle R. Thornburg, CPA  
Secretary